

So Ordered.

Signed this 30 day of November, 2023.



Robert E. Littlefield, Jr.
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

NATHAN GERMAIN,

Case No. 23-10875
Chapter 7

Debtor.

STIPULATED ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY

WHEREAS debtor Nathan Germain (the “Debtor”) filed his petition for relief under Chapter 7 of the United States Bankruptcy Code on August 28, 2023;

WHEREAS Christian H. Dribusch, Esq. is the duly appointed and serving Chapter 7 Trustee (the “Trustee”);

WHEREAS the Trustee conducted his Code §341 meeting of creditors and thereafter filed his Chapter 7 Report of No Distribution on October 6, 2023;

WHEREAS Debtor scheduled a 100% ownership interest in Germain Enterprises LLC d/d/b/a “Malcolms” (the ”Business”) and further disclosed that the contents of the Business premises are subject to the lien of New York Business Development Corporation (“NYBDC”) and are owned by the Business with a value of \$10,000.00 (the “Contents”;

WHEREAS NYBDC is a first priority perfected secured creditor of both the Debtor and the Business by virtue of, among other documents, a Note dated December 1, 2017, a Loan and Security Agreement dated December 1, 2017, a Mortgage, Security Agreement and Assignment of Leases and Rents dated December 1, 2017 which was recorded in the Schenectady County Clerk’s Office on December 19, 2017 as instrument no. 201-57046 (the “Mortgage”) and a Uniform Commercial Code financing statement filed in the Office of the New York Secretary of State on October 17, 2017 at filing no. 2017-10278463901 (and thereafter continued on May 3, 2022 at filing no. 2022-0508208808);

WHEREAS NYBDC has represented that it is owed the principal sum of \$512,221.26, plus interest thereon;

WHEREAS NYBDC intends to conduct a UCC Article 9 sale of the Contents of the Business, without prejudice to later exercising its rights under its Mortgage; and

WHEREAS the Trustee and the Debtor consent to NYBDC obtaining relief from the automatic stay to conduct the sale so long as any surplus monies be turned over to the Trustee for administration;

IT IS HEREBY STIPULATION AND AGREED AS FOLLOWS:

1. NYBDC is granted relief from the automatic stay to conduct its Article 9 sale pursuant to Code §362(d)(1) as the Debtor does not have equity in the in the Contents and pursuant to Code §362(d)(2) as the Contents are not needed for an effective reorganization.

2. NYBDC shall turn over any surplus resulting from the sale to the Trustee.

3. The stay imposed on the effectiveness of this Stipulated Order under Fed. R. Bankr. Pro. 6004(h) is hereby waived.

Dated: November 30, 2023

Respectfully submitted,

/s/Paul A. Levine

Paul A. Levine, Esq.
LEMERY GREISLER LLC
Attorneys for New York Business
Development Corporation d/b/a Pursuit
Office and P.O. Address
677 Broadway, 8th Floor
Albany, New York 12207
(518) 433-8800

/s/Christian H. Dribusch

Christian H. Dribusch, Esq.
Chapter 7 Trustee
187 Wolf Road, Suite 300-20
Albany, New York 12205
(518) 227-0026

/s/ Mike Boyle

Mike Boyle, Esq.
Boyle Legal, LLC
Attorneys for Debtor
64 2nd Street
Troy, New York 12180
(518) 987-1648

###